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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,988	04/17/2006	Marcello Memmolo	19725	8467
272 7590 04/22/2008 SCULLY, SCOTT, MURPHY & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
SINGH, SUNIL K				
ART UNIT		PAPER NUMBER		
3732				
MAIL DATE		DELIVERY MODE		
04/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/575,988

**Applicant(s)**

MEMMOLO ET AL.

**Examiner**

Sunil K. Singh

**Art Unit**

3732

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-14 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11,13,14 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogt et al. (US 2004/0096804) in view of Porter et al. (US 2004/0101808).

Vogt discloses a dental implant and (4A-4B) and a transfer part of a dental implant (3 in Figs. 3a-3c) that includes: a clamping portion (33); a radial groove (331) that is capable to directly engage with the dental implant; a force transmission element (330) having an octagonal surface [0088]; and a clamp ring (332) in its non assembled state having a gap that is assembled in the radial groove (331) (Fig. 3b); an extension (30) having an outer polyhedral (Figs. 3a-3c) and a fixing portion (32) positioned between the extension (30) and the clamping portion (33) (Figs. 3a-3c). Vogt further discloses a combination of a transfer part (as previously described) and an inner ampule (Figs. 7a-8c) where the inner ampule includes: a laterally open upper fixing portion (40) with indentions (42) that enlarges radially toward a large surface recess (43) (also shown in Fig. 8a); a lower fixation portion having a laterally open indentation towards the recess and adapted to receive the implant (Fig 8c). Furthermore, Vogt discloses an ampule that includes: the indentation of the upper fixing portion (402) is

trumpet like (Figs. 7a-7b) and the lower fixing portion is configured in the form of two support wings (Fig. 8c); the indentation is adapted to receive a fixing portion of the transfer part (Fig. 7e and 8c) and where lower fixing portion is adapted to receive an implant shoulder (Fig. 8c); and where the recess (61) is formed with rounded corners at its lower portion opposite to the indentation (Fig. 8c). However, Vogt fails to disclose a dental implant having an undercut dimensioned suitably for clampingly receiving a clamping ring.

Porter teaches a dental implant (10) that includes an undercut (110) dimensioned suitably for clampingly receiving a clamping ring (116) (Fig. 6D). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Vogt, to include an implant having an undercut dimensioned suitably for clampingly receiving a clamping ring, as taught by Porter, in order to provide an anti-rotational locking system where the implant is lockingly secured onto the transfer part of the apparatus.

3. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vogt et al. (US 2004/0096804) in view of Porter et al. (US 2004/0101808) and further in view of Sutter et al. (US 5,078,605).

Vogt/Porter discloses the invention substantially as claimed except for a clamp ring being formed from polyether ether ketone (PEEK).

Sutter teaches a ring (31) that is inserted in a groove (25d) that is made of PEEK in order to provide a material non-toxic, biocompatible, and capable of being easily processed (Column 5, Lines 44-51). It would have been obvious to one having

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ordinary skill in the art at the time the invention was made to modify Vogt/Porter by forming a ring made of PEEK, as taught by Sutter, in order to provide a ring that is non-toxic and capable of easily being processed.

***Response to Arguments***

4. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil K. Singh whose telephone number is (571) 272-3460. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris L. Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

04/16/2008

/Sunil K Singh/  
Examiner  
Art Unit 3732

/Cris L. Rodriguez/  
Supervisory Patent Examiner, Art Unit 3732